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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/685,192
Filing Date: October 14, 2003
Appellant(s): MEWHERTER ET AL.

Steven M. Greenberg

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03 Nov. 2008 appealing from the Office action mailed 01 Aug. 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2004/0202349 A1	Erol et al.	4-2003
2004/0194035 A1	Chakraborty	3-2000
7162691 B1	Chatterjee et al.	2-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5:

The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that would not result in a practical application producing a

concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is considered functional descriptive material (software), per se, which is not statutory.

Functional descriptive material claimed in combination with an appropriate computer readable medium to enable the functionality to be realized is patent eligible subject matter if it is capable of producing a useful, concrete, and tangible result when used in a computer system.

Dependent **Claims 2-5** merely recite further manipulation or specification of data. Thus, none of **Claims 2-5** produce a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Erol et al. (Pub. No.: 2004/0202349 A1; Filing Date: Apr. 11, 2003) (hereinafter 'Erol').

In regards to independent claim 1, Erol discloses *a system for converting slide show presentations for use within non-presentation applications, the system comprising:*

a slide show produced by a slide show presentation application and stored in a native format (0032-0034; Erol discloses a PowerPoint presentation which may contain natural or synthetic images, photos, text or lines of text or a combination of thereof.).

a slide show conversion process configured for coupling to a non-presentation application and *programmed both to extract contextual data from said slide show in its native format, and also to convert associated slides in said slide show to raster imagery for use in said non-presentation application* (0032-0034; 0111; 0118; Erol discloses a PowerPoint presentation which may contain natural or synthetic images, photos, text or lines of text or a combination of thereof. Erol also discloses presentation slides can be stored as a sequence of images, e.g. as JPEGs, BMPs, etc.(raster imagery). Erol further discloses using Optical Character Recognition (OCR) for extracting text from a PowerPoint file/slide.).

In regards to dependent claim 5, Erol disclose *the system of claim 1, wherein said slide show conversion process further comprises programming for reducing said raster imagery to a size suitable for display in a pervasive device* (0041; Erol discloses

user interface output devices that in intended to include all possible types of devices and ways to output information from data processing system. Thus Erol suggest reducing said raster imagery to a size suitable for display in a pervasive device.).

NOTE

It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the reference should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. See MPEP 2123.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-4, 6-9, 12, 14-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erol in view of Chakraborty (Pub. No.: 2004/0194035 A1; Filing Date: Mar. 31, 2000) (hereinafter 'Chakraborty').

In regards to dependent claim 2, Erol does not expressly disclose *the system of claim 1, wherein said contextual data comprises a slide title for each one of said associated slides.*

However Chakraborty teaches *contextual data comprises a slide title for each one of said associated slides* (0020; 0029; 0032; 0036; Chakraborty teaches extracting text and non-text (i.e., images) information from an electronic document. Chakraborty further teaches extracting titles and fields along with their coordinates and their styles.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

In regards to dependent claim 3, Erol does not expressly disclose *the system of claim 1, wherein said contextual data comprises important text associated with each one of said associated slides.*

However Chakraborty teaches *contextual data comprises important text associated with each one of said associated slides* (0020; 0022; 0024; Chakraborty teaches extracting important form information within portions that has been recognized by the system, i.e. lines as lines, text as text, etc., as well as form information that lies within images.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an

information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

In regards to dependent claim 4, Erol does not expressly disclose *the system of claim 1, wherein said slide show conversion process further comprises programming for generating a markup language document and for disposing said contextual data and said raster imagery within said markup language document.*

However Chakraborty teaches *generating a markup language document and for disposing said contextual data and said raster imagery within said markup language document* (0010; 0021; 0056; Chakraborty teaches the extracted information is stored as an XML (extensible markup language) file that follows a predefined DTD (document type definition. Thus Chakraborty teaches disposing said contextual data and said raster imagery within said markup language document.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

In regards to independent Claims 6 and 16, Erol discloses *a slide show presentation produced by a slide show presentation application*.

*converting said first slide into a raster image (*0032-0034; 0111; 0118; Erol discloses a PowerPoint presentation which may contain natural or synthetic images,

photos, text or lines of text or a combination of thereof. Erol also discloses presentation slides can be stored as a sequence of images, e.g. as JPEGs, BMPs, etc.(raster imagery).

Erol does not expressly disclose *extracting a slide title for a first slide in the slide show presentation*;

disposing both said slide title and said raster image in a markup language document;

repeating said extracting, converting and disposing steps for a selected group of other slides in the slide show presentation;

Chakraborty teaches *extracting a slide title for a first slide in the slide show presentation* (0020; 0029; 0032; 0036; Chakraborty disclose extracting text and non-text (i.e., images) information from an electronic document. Chakraborty further disclose extracting titles and fields along with their coordinates and their styles.).

disposing both said slide title and said raster image in a markup language document (0010; 0020; 0021; 0029; 0032; 0036; 0056; Chakraborty disclose extracting text and non-text (i.e., images) information from an electronic document. Chakraborty further disclose extracting titles and fields along with their coordinates and their styles Chakraborty disclose the extracted information is stored as an XML (extensible markup language) file that follows a predefined DTD (document type definition.).

repeating said extracting, converting and disposing steps for a selected group of other slides in the slide show presentation (It would have been obvious to one of

ordinary skill in the art that the steps of extracting, converting and disposing would be repeated for all selected group of slides within the slide show presentation.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

In regards to dependent claims 7 and 17, Erol does not expressly disclose *further extracting important text from said first slide*.

annotating said raster image of said first slide in said markup language document with said extracted important text.

further repeating said repeating, further extracting and annotating steps for a selected group of other slides in the slide show presentation.

Chakraborty teaches *further extracting important text from said first slide* (0020; 0029; 0032; 0036; Chakraborty teaches extracting text and non-text (i.e., images) information from an electronic document. Chakraborty further disclose extracting titles and fields along with their coordinates and their styles.).

annotating said raster image of said first slide in said markup language document with said extracted important text (0010; 0037; Chakraborty disclose XML files which are referred to as Anchorable Information Unit (AIU) files. Chakraborty disclose

combining a partial AIU file that contains extracted form information with another partial AIU file that contains extracted form information for non-text (images) portions of the input file. Therefore Chakraborty disclose annotating said raster image of said first slide in said markup language document with said extracted important text.).

further repeating said repeating, further extracting and annotating steps for a selected group of other slides in the slide show presentation (It would have been obvious to one of ordinary skill in the art that the steps of extracting, and annotating would be repeated for all selected group of slides within the slide show presentation.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

In regards to dependent claims 8 and 18, Erol discloses *wherein said further extracting step comprises the step of further extracting text having formatting characteristics within said first slide which emphasizes said text* (0031; 0112; 0116; Erol teaches extracting text having formatting characteristics such as color and font size.).

In regards to dependent claims 9 and 19, Erol discloses *wherein said formatting characteristics comprise a point size which exceeds a threshold value* (0091; 0112; 0116; Erol teaches the formulation for threshold selection includes a constant

typically based the amount and size of the text in an image. Thus Erol teach/suggest the concept or technique of formatting characteristics comprise a point size which exceeds a threshold value.).

In regards to dependent claim 12, Erol does not expressly disclose *the method of claim 6, further comprising the step of processing said markup language document in a non-presentation application.*

Chakraborty teaches *the method of claim 6, further comprising the step of processing said markup language document in a non-presentation application* (0028; 0078).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

In regards to dependent claim 14, Erol does not expressly disclose *the method of claim 6, further comprising the step of performing each of said extracting, disposing, converting and repeating steps in externally to a slide show presentation application which produced the slide show presentation.*

Chakraborty teaches *the method of claim 6, further comprising the step of performing each of said extracting, disposing, converting and repeating steps in externally to a slide show presentation application which produced the slide show*

presentation (0020-0025; Chakraborty disclose the steps of extracting, disposing, converting text and non-text formed information.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

In regards to dependent claims 15 and 22, Erol discloses *reducing said raster image to a size suitable for display in a pervasive device* (0041; Erol discloses user interface output devices that in intended to include all possible types of devices and ways to output information from data processing system. Thus Erol suggest reducing said raster imagery to a size suitable for display in a pervasive device.).

Erol does not expressly disclose *rendering said slide title.*

Chakraborty disclose *rendering said slide title* (0020; 0029; 0032; 0036; Chakraborty discloses extracting text and non-text (i.e., images) information from an electronic document. Chakraborty further discloses extracting titles and fields along with their coordinates and their styles.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chakraborty with Erol for the benefit of providing an information extraction process for extracting form information associated with text portions and/or non-text portion within an electronic document (0017).

NOTE

It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the reference should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. See MPEP 2123.

Claims 10, 11, 13, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erol in view of Chakraborty, further in view of Chatterjee et al. (Patent No.: US 7,162,691 B1; Filing Date: Feb. 1, 2000) (hereinafter 'Chatterjee').

In regards to dependent claims 10 and 20, Erol in view of Chakraborty does not expressly disclose *wherein said annotating step comprises the step of generating an ALT tag with said important text in association with said raster image in said markup language document.*

However Chatterjee teaches *generating an ALT tag with said important text in association with said raster image in said markup language document* (col. 2, lines 30-37; Chatterjee teaches XML documents may contain markup tags which identify non-text data, such as image, audio or video data, or program files. Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to provide a markup language document containing an ALT tag with said important text in association with said raster image.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chatterjee with Erol in view of Chakraborty for the benefit of providing markup language documents containing markup tags which identify non-text data, such as image, audio or video data, or program files (col. 2, lines 30-37).).

In regards to dependent claims 11 and 21, Erol in view of Chakraborty does not expressly disclose *wherein said generating step further comprises the step of formatting said ALT tag with additional inline indicators for facilitating an audible playback of said important text in a non-presentation application.*

However Chatterjee teaches *the step of formatting said ALT tag with additional inline indicators for facilitating an audible playback of said important text in a non-presentation application* (col. 2, lines 30-37; col. 4, lines 51-62; Chatterjee teaches XML documents may contain markup tags which identify non-text data, such as image, audio or video data, or program files.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chatterjee with Erol in view of Chakraborty for the benefit of providing markup language documents containing markup tags which identify non-text data, such as image, audio or video data, or program files (col. 2, lines 30-37).).

In regards to dependent claim 13, Erol in view of Chakraborty does not expressly disclose *the method of claim 12, wherein said processing step comprises the step of generating an agenda with each slide title for each raster image in said markup language document.* Chakraborty disclose extracting text and non-text (i.e., images) information from an electronic document. Chakraborty further discloses extracting titles and fields along with their coordinates and their styles (0020; 0029; 0032; 0036).

Chatterjee teaches *wherein said processing step comprises the step of generating an agenda with each slide title for each raster image in said markup language document* (col. 2, lines 30-37; col. 4, lines 51-62; Chatterjee teaches XML documents may contain markup tags which identify non-text data, such as image, audio or video data, or program files. I t would have been obvious to one of ordinary skill in the art to modify Chakraborty's teaching with Chatterjee's teaching of markup tags for the benefit of generating an agenda with each slide title for each raster image in said markup language document.).

Therefore at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Chatterjee with Erol in view of Chakraborty for the benefit of providing markup language documents containing markup tags which identify non-text data, such as image, audio or video data, or program files (col. 2, lines 30-37).).

NOTE

It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the reference should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. See, MPEP 2123.

(10) Response to Argument

THE OBJECTION TO CLAIM 16 UNDER 37 C.F.R. 1.75(D)(1)

Appellant states "Appellants interpret Examiner's objection to fall under 35 U.S.C. § 112" (Appeal, page 5)

The Examiner notes to the Honorable Board that the Examiner set forth a "claim **objection**" against Claim 16, as can be seen above. For some unknown reason, the Appellant has ***converted*** the claim **objection** to a "claim **rejection**."

The Examiner further notes, as recited in MPEP 706.01, the practical difference between a rejection and an objection is that a **rejection**, involving the merits of the claim, is subject to review by the Board of Patent Appeals and Interferences, while an **objection**, if persisted, may be reviewed ***only*** by way of petition to the Director of the USPTO. Thus, the Examiner will not respond to the rejection set forth by the Appellant.

THE REJECTION OF CLAIM 1 THROUGH 5 UNDER 35 U.S.C. § 101

Appellant argues that Claim 1 recites statutory subject matter because "the slide show conversion process both extracts data from a slide show in its native format, and also converts associated slides in the slide show to raster imagery -- a blatant transformation of an article or physical object to a different state or thing." Appellant argues further that the above analysis is directly supported in Ex Parte Bilski, with holds that **any** claim reciting an algorithm or process recites statutory subject matter when the claim operates to transform an article or physical object to a different state or thing (emphasis added). Finally, Appellant argues that MPEP 2106.01 provides strong support for the statutory nature of Claims 1-5. (Appeal, pages 8-9)

The Examiner disagrees.

Firstly, Claim 1 recites a "*system*" comprising a "*slide show"* and a "*slide show conversion process*." In order for the recited "*system*" to be statutory subject matter, the "*system*" must fit into one of the categories of statutory subject matter in 35 USC 101 (i.e., a process, a machine, a manufacture or a composition of matter).

The "*slide show*" and the "*slide show conversion process*" are the only two components of the recited "*system*." Neither the "*slide show*" component nor the "*slide show conversion process*" component necessarily includes a computer **hardware** component. Rather, as claimed, the "*slide show*" component is **electronic data** and the "*slide show conversion process*" component is an **algorithm of computer instructions** (i.e., **electronic commands**).

Accordingly, the recited "*system*" cannot fit into the statutory category of a machine. Furthermore, the recited "*system*" is clearly not a process, a manufacture or a composition of matter. Thus, the recited "*system*" does not fit into a statutory category, as defined in 35 USC 101.

Secondly, Bilski does **not** hold that **any** claim reciting an algorithm or process recites statutory subject matter when the claim operates to transform an article or physical object to a different state or thing. Rather, Bilski holds that a **process** claim recites statutory subject matter when the claim operates to transform an article or physical object to a different state or thing. As indicated in the above discussion, Claim 1 set forth a "*system*" and is thus not a process claim.

Thirdly, in regard to MPEP 2106.01, Appellant ignores the most import part, which states:

> "USPTO personnel should determine **whether the computer program is being claimed as part of an otherwise statutory manufacture or machine**" (emphasis added).

The "computer program" component (i.e., the recited "*slide show conversion process*") of Claim 1 is **not** being claimed as part of an otherwise statutory manufacture or machine, because the recited "*system*" of Claim 1 does **not** include a computer **hardware** component.

Fourthly, in regard to Appellant's statement that converting the slides to raster imagery is a blatant transformation of an article or physical object to a different state or thing, the Appellant is wrong. In the context of the invention recited in Claim 1, the "*slides*" and the "*raster imagery*" are simply **electronic data**. Electronic data, in the abstract, is neither an article nor a physical object.

For the above reasons, Claims 1-5 are properly rejected under 35 USC 101.

THE REJECTION OF CLAIMS 1 AND 5 UNDER 35 U.S.C. § 102(E) AS BEING ANTICIPATED BY EROL

Appellant argues that Erol fails to disclose a slide show presentation process that extracts contextual data from the slide show in its native format and converts associated slides in said slide show to raster imagery. More specifically, Appellant argues "*Erol provides a teaching of converting raster imagery into non-raster imagery (text). Yet, the plain language of claim 1 (and also claims 6 and 16) require the conversion of contextual data (non-raster imagery) in a slide show into raster imagery -- the opposite of the teachings of Erol.*" (Appeal, pages 10-11)

The Examiner disagrees.

Firstly, in regard to the recited "*contextual data*" that is extracted from the slide show in its native format, the Specification expressly states that contextual elements

can include text extracted from the slide show presentation (see Pages 8-9, spanning sentence).

Erol expressly discloses:

- a presentation slide may include images, photos, text or a combination thereof (see Page 2, Paragraph 0032, last sentence);
- a presentation recorder is able to capture information presented during a presentation by tapping into and capturing a stream of information from an information source; particularly, a presentation recorder taps into PowerPoint slides to extract information about the slides (see Page 2, Paragraph 0033, fourth and fifth sentences); and
- presentation recorders include screen capture software that captures PowerPoint slides by storing the slides as a sequence of images (e.g., BMPs) or by extracting the text content of the slides (see Page 3, Partial Paragraph 0033, first and second sentences).

Thus, Erol discloses "*a slide show conversion process* (e.g., the screen capture software in the presentation recorder) *configured for coupling to a non-presentation application* (e.g., the presentation recorder) *and programmed both to extract contextual data from said slide show in its native format* (e.g., the screen capture software extracts information - images, photos, text, etc. - from the PowerPoint slides in the "PowerPoint" format and then converts it to a "bitmap" format, which is a raster graphics format and the equivalent of the recited "*raster imagery*"), *and also to convert associated slides in said slide show to raster imagery for use in said non-presentation application* (e.g., the

screen capture software extracts information - images, photos, text, etc. - from the PowerPoint slides in the "PowerPoint" format, then converts it to a "bitmap" format, which is a raster graphics format and the equivalent of the recited "*raster imagery*," and subsequently sends the converted information to the presentation recorder so that the converted information can be stored by the presentation recorder)," as recited in Claim 1.

Secondly, in response to Appellant's argument that the reference fails to show *conversion of contextual data (**non-raster imagery**) in a slide show into raster imagery*), the examiner notes that converting "non-raster" imagery into "raster" imagery is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

For the above reasons, Claim 1 is anticipated by Erol.

THE REJECTION OF CLAIMS 2-4, 6 THROUGH 9, 12, 14 THROUGH 19 AND 22 UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER EROL IN VIEW OF CHAKRABORTY, THE REJECTION OF CLAIMS 10, 11, 13, 20, 21 AND 22 UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER EROL IN VIEW OF CHAKRABORTY AND FURTHER IN VIEW OF CHATTERJEE

The examiner notes that Appellant's arguments correspond to the above arguments.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/JAMES J. DEBROW/

JAMES DEBROW
EXAMINER
ART UNIT 2176

Conferees:

/DOUG HUTTON/
Supervisory Patent Examiner, Art Unit 2176

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Supervisory Patent Examiner, Art Unit 2178